

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**CODY STEWART, AMY STEWART AND
FAITH STEWART AND CLAYTON STEWART,
MINORS, BY AND THROUGH THEIR NATURAL
GUARDIANS, CODY STEWART AND AMY STEWART** **PLAINTIFFS**

VS. **CAUSE NO. 1:18-cv00053-HSO-JCG**

**HUNT SOUTHERN GROUP, LLC FKA
FOREST CITY SOUTHERN GROUP, LLC,
FOREST CITY RESIDENTIAL MANAGEMENT, LLC,
UNKNOWN JOHN and JANE DOES A THROUGH M, AND
OTHER UNKNOWN CORPORATE ENTITIES N THROUGH Z** **DEFENDANTS**

**PLAINTIFFS' MOTION TO STRIKE THE
OPINIONS AND TESTIMONY OF RIMKUS CONSULTING GROUP, INC.
ALLISON STOCK AND JEFFREY COOK OR, IN THE ALTERNATIVE, FOR
DAUBERT HEARING**

COME NOW PLAINTIFFS, by and through their counsel, and file this Motion to Strike the Opinions and Testimony of Rimkus Consulting Group, Inc. (Rimkus) with Regard to Plaintiffs. Plaintiffs' Motion, which is supported by an accompanying Memorandum of Law, will show that Rimkus' opinions do not qualify as appropriate expert testimony under the Federal Rules of Evidence or the applicable case law. Accordingly, Plaintiffs respectfully request the Court GRANT Plaintiffs' motion and strike Rimkus' testimony and opinions.

1. Plaintiffs in this case, and twelve related cases, bring claims against Defendants for personal injuries arising from their exposure to mold in Plaintiffs' military housing units at Keesler AFB. Plaintiffs allege they were exposed to mold contamination for which Defendants were liable, leading to a variety of property damage and physical health issues.

2. The opinions and testimony of Rimkus should be excluded pursuant to Rules 702 and 704 of the Federal Rules of Evidence because his testimony would amount to inadmissible

conclusions outside the realm of skill, knowledge and expertise of the purported expert and contains improper legal conclusions. Additionally, Rimkus' opinions are not founded upon any proper documentary evidence, include sheer speculation and/or conjecture, and are based upon the incorrect application of a legal standard. Finally, Rimkus' methodology, as well as its conclusions, are inadmissible because they are unreliable under *Daubert v. Merrell Dowell Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993).

3. Based upon the same, Rimkus: (a) is not qualified to testify and has provided no expert report, (b) his opinions (if any exist) would be unreliable under the standard set by the Supreme Court in *Daubert v. Merrell Dowell Pharmaceuticals, Inc.*, (c) his opinions (if any exist) would amount to inadmissible legal conclusions; and (d) his opinions (if any exist) are unnecessary and unhelpful to the trier of fact.

4. Plaintiffs further request that this Court conduct a hearing to determine whether the opinions in the reports of Defendants' experts are "proper and reliable" as Plaintiffs are challenging the qualifications of Defendants' experts, the relevance of their testimony, and the reliability of their opinions which warrant further inquiry by the Court.

5. In support of this motion Plaintiffs rely upon the following exhibits:

- Report of Rimkus Consulting Group, Inc. attached as **Exhibit A**.
- FCRM00001455 **Exhibit B** to be produced under seal.
- FCRM00000931 **Exhibit C** to be produced under seal.
- RIMKUS – SUB – 00034 **Exhibit D** to be produced under seal.
- September 12, 2011 Report of Limited Property Condition Assessment and Visual Infrastructure Assessment prepared by AMEC E & I INC (FCRM00000859) **Exhibit E** to be produced under seal.

- February 17, 2012 Letter from Liberty Building Forensics Group (FCRM00000361) **Exhibit F** to be produced under seal.
- February 17, 2012 Report of Housing Assessment for Moisture Related Problems prepared by Liberty Building Forensics Group (FCRM00000515) **Exhibit G** to be produced under seal.
- August 3, 2012 Letter Bullet List to Further Delineate Implementation of Scope of Work Keesler AFB Housing Assessment for Moisture Related Problems prepared by Liberty Building Forensics Group (FCRM00000520) **Exhibit H** to be produced under seal.
- October 2, 2012 Building Science Corporation Enclosure and HVAC Analysis of Housing Units on Keesler Air Force Base (FCRM00001096) **Exhibit I** to be produced under seal.
- April 22, 2013 Keesler AFB Privatized Housing Complex Residential Modifications Recommendations and Observations by J.O. Collins Contractor Inc. (Hunt - Gen05 – 00193) **Exhibit J** to be produced under seal.
- April 26, 2013 Observations on HVAC Rehabilitation from Kimbel Mechanical Systems (Hunt - Gen05 – 00471) **Exhibit K** to be produced under seal.
- May 1, 2013 Prototype Completion Report HVAC Improvements Project (Hunt - Gen05 – 00363) **Exhibit L** to be produced under seal.
- December 23, 2013 Report prepared by Forest City (FCRM00001001) **Exhibit M** to be produced under seal.

- December 2, 2015 Keesler Air Force Base Enclosure & Moisture Issues Evaluation Report by Building Science Corporation (SDT SG-DB LLC 000225) **Exhibit N** to be produced under seal.
- Maintenance history of the Subject Property from the time the land lease with the United States Air Force was entered into with Forest City Southern Group, September 30, 2011 through the date Plaintiffs signed their lease (STEWART-HUNT-GEN02-00007-00096) **Exhibit O** to be produced under seal.
- Mold Management Plan FCRM00001552 **Exhibit P** to be produced under seal.
- Mold Awareness Training: Awareness Training for All On-Site Associates, at 1-2 (FCRM00001609) **Exhibit Q** to be produced under seal.
- Mold & Mildew: Mold Awareness for Residents of Our Apartment Community, at 1-2 (FCRM00000096) **Exhibit R** to be produced under seal.
- What You Should Know About Mold (Hunt – Gen05-00812) **Exhibit S** to be produced under seal.
- Jeff Cook deposition excerpts **Exhibit T** to be produced under seal.
- Allison Stock deposition excerpts **Exhibit U** to be produced under seal.

Accordingly, Plaintiffs respectfully request the Court GRANT Plaintiffs' Motion and Strike Rimkus' opinions and testimony in this case.

Respectfully submitted this the 10th day of May, 2019.

RUSHING & GUICE, P.L.L.C.
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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of May, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF filing system which sent notification of such filing to all counsel of record.

SO CERTIFIED this the 10th day of May, 2019.

/s/ Maria Martinez
MARIA MARTINEZ